

In re: Acquisition of Burlington Labs )  
 ) Docket No. GMCB-014-16con  
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Condition 2.B to read as follows: “The project as described in the Application shall be fully implemented no later than January 30, 2017.”

#### Condition 2.D

Condition 2.D provides that the CON is not transferrable or assignable and is only for the premises and entity named in the Application. BLA requests that this condition be modified to allow it to assign the CON to BLA Partners, LLC. In support of this request, BLA explains that following the public announcement of the settlement between Burlington Labs and the State regarding Medicaid billing it became clear to the investor group that retaining the name “Burlington Labs” would be detrimental to the long-term health of the business. Request to Amend. BLA, a Delaware limited liability company, requests modification of this condition so it can complete the closing and implement the project through a different Delaware limited liability company named BLA Partners, LLC. *Id.*

Review of the Limited Liability Company Agreements for BLA, LLC, and BLA Partners, LLC, filed with the State of Delaware on August 18 and November 21, 2016 respectively, shows that the two entities are virtually identical and consist of a sole member and manager, James H. Crook, Jr. We therefore do not find the change material and grant BLA’s request to amend Condition 2.D to read as follows:

This Certificate of Need is not transferable or assignable and is issued only for the premises and entity named in the application, except that it may be assigned to BLA Partners, LLC pursuant to a written assignment under which BLA Partners, LLC agrees to comply with all conditions set forth in the Certificate of Need, as amended.

#### Condition 2.F

The Report, submitted in accordance with Condition 2.F, outlines the Applicant’s progress to date which includes: restructuring of the project’s capitalization and elimination of Burlington Labs as an equity owner,<sup>1</sup> recognition of an increased trade debt,<sup>2</sup> and details of Burlington Lab’s settlement with the Office of Attorney General over Medicaid billing issues. The Board finds that these deviations from initial projections are not material changes that prevent BLA from moving forward with project implementation, albeit in an extended timeframe and under a different name. The Board therefore approves BLA’s request to allow for these changes by incorporating the Report by reference into this amended CON.

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<sup>1</sup> The Applicant initially proposed that the project would be capitalized with equity investments of \$4.5 million, that the Investor Group would hold a 62% ownership interest, and the University of Vermont Health Network and the current owners of Burlington Labs would hold 15% and 23% ownership interests, respectively. CON, Findings of Fact, ¶¶ 12 - 13; *see also*, Application, Description of the Project, § 1. The Report indicates that the project will be capitalized with equity investments of \$5 million and that ownership will be split between the Investor Group (80%) and UVM Health Ventures Inc. (20%); the current owners of Burlington Labs will not be equity owners. Report, ¶ 7.

<sup>2</sup> Indebtedness to Burlington Labs’ vendors has grown from \$3.7 million to \$4.4 million. *Compare* CON, Findings of Fact, ¶ 5 *with* Report, ¶ 5.

### III. Conclusion

For the reasons stated above, the Board amends the CON issued on September 1, 2016 to modify conditions 2.B and 2.D. Further, pursuant to Condition 2.F, the Board amends the CON to conform to the First Implementation Report, which is incorporated by reference into this amendment.

### SO ORDERED.

Dated: December 5, 2016 at Montpelier, Vermont.

s/	Alfred Gobeille	)	GREEN MOUNTAIN
		)	CARE BOARD
s/	Cornelius Hogan	)	OF VERMONT
		)	
s/	Jessica Holmes	)	
		)	
s/	Robin Lunge	)	
		)	
s/	Betty Rambur	)	

Filed: December 5, 2016